

**TERM SHEET
BETWEEN THE CITY OF BELLEVUE AND SOUND TRANSIT
IN ANTICIPATION OF AN AGREEMENT**

1) Purpose

Upon execution of this Term Sheet, the parties will immediately enter into good-faith negotiations to produce a binding umbrella memorandum of understanding (hereinafter "umbrella MOU"), as described below, on or before October 25, 2011, unless this date is extended by mutual agreement of the parties. It is anticipated that this binding umbrella MOU will address, at least, the following: C9T tunnel funding and project cost updating, cost reconciliation and risk and benefit sharing procedures, use of City right-of-way and associated terms and conditions, a description of the applicable City codes and regulations and potential regulatory changes, and design modifications to the project scope. These potential modifications to project scope address design modifications to the Project intended to meet the City's goals of mitigating traffic, noise, and visual impacts to the surrounding neighborhood and environment while ensuring that the Project continues to meet the objectives established by the Sound Transit Board.

This Term Sheet does not bind the parties to specific project funding actions, alignment decisions, or approvals, but rather is a commitment to negotiate in good faith future binding agreements consistent with these terms including the umbrella MOU. If the parties are not able to reach agreement on a subsequent agreement(s) consistent with this Term Sheet after negotiating in good faith, neither party shall be further bound by this Term Sheet.

2) Project Scope Description

As used herein, "Project" refers to the approximately six- mile alignment through Bellevue described in Exhibit A with certain City requested modifications to the Project alignment that will be a subject of the binding umbrella memorandum of understanding.

3) City Funding Contributions and Commitments to Manage Project Cost

The City and Sound Transit will commit to actions and activities as defined in this Term Sheet to work together towards closing the funding gap for the "C" segment, such actions and activities to be detailed in the binding umbrella MOU. The City will reduce by up to \$150 million (\$2007) Sound Transit's costs for the Project. The specific values associated with the City's funding commitments will be identified in the binding umbrella MOU. Credits to the City's funding commitments for the real property interests described herein will be based on Sound Transit estimates and as further described in the binding umbrella memorandum of understanding.

The binding umbrella MOU between the parties will include provisions and a process for quantifying and sharing Project cost benefits and risks, for baselining the Project cost estimate, for cost reconciliation, and other funding procedures.

A. Up-Front City Commitments:

The City will take all or a portion of the actions listed below and to be detailed in the binding umbrella MOU to reduce Sound Transit's costs by a minimum amount of \$100 million (\$2010):

- Provide permanent easements on certain City-owned property at no cost to Sound Transit.

- Provide temporary easements for construction staging on certain City-owned property at no cost to Sound Transit.
- Contribute the depreciated value of City-owned utilities relocated by the Project
- Cooperate with Sound Transit to direct conflicting private utilities to relocate when necessary at their expense, as provided by law.
- Contribute sales and B&O taxes received by the City as a result of the Project.
- Purchase certain properties needed for the East Link Project, which also could be used to serve other public purposes. The City would then provide permanent easements or other property interests.
- Other City actions that reduce Sound Transit's costs for the Project.

B. Contingent Contributions

Depending upon the cost of the Project within Bellevue after consideration of the benefit and risk sharing allocations and Project cost reconciliation procedures to be included in the binding umbrella memorandum of understanding, including providing appropriate credit for cost and risk reductions as a result of cooperative actions of the City, the City will take some or all of the following additional actions to reduce Sound Transit's costs by up to an additional amount to bring the total cost reduction to Sound Transit to up to \$160 million:

- Cash or other contributions. The City may provide cash, property or other contributions funded by the City, third parties or through grant funding to in whole or in part satisfy its commitment.

C. City and Sound Transit Commitments to Cost Management

The parties are committed to managing within the Project scope, schedule and budget as follows:

- The City will convey permanent property easements and permanent underground easements in City street rights of way to Sound Transit for as long as required solely for the Project and consistent with Federal Transit Administration continuing control requirements.
- The City will provide all third-party assistance necessary to maintain project schedule, including design reviews, construction inspections, police control, and tunnel rescue team.
- Sound Transit and the City will work together to value engineer the Project with the goal of reducing the Project costs.

4) City Requested Modifications to the Project

Sound Transit agrees to evaluate for potential inclusion in the Project's scope the following City requested modifications, and to conduct further engineering, environmental and other federal reviews, and outreach as appropriate:

- a) Grade-separate the alignment along 112th Avenue NE so as to eliminate traffic conflicts and to reduce noise from gated crossings and/or bells.
- b) Review further the optimal location to cross from the east to the west-side of 112th.
- c) Move the SE 8th Station to the East Main Street Design Option location described in the final EIS. Noise walls planned by Sound Transit in this area should be designed so as to mitigate noise from trains entering and exiting the station.
- d) Between Surrey Downs Park and Main Street provide additional landscaping between the light rail alignment and the sidewalk on 112th.

- e) Change access to enhance Surry Downs Park for neighborhood use.
- f) Improve traffic flow on Bellevue Way by adding an additional southbound lane on the City's Bellevue Way project between 112th and I-90. Sound Transit will fund the portion of the lane as described in the final EIS as mitigation for the expansion of the South Bellevue park-and-ride.
- g) Such other requests intended for the purposes of reducing costs.

5) Subsequent Agreements

The parties acknowledge that the binding umbrella memorandum of understanding will establish the scope and timelines for developing additional agreements on the following subjects:

- a) Project and program management ideas as described in the April 2010 term sheet between the parties.
- b) A process for cooperative identification of value engineering for the Project, including cooperative development of 60% design.
- c) Identification of opportunities to clarify the codes and regulations that apply to the Project, including negotiation of a development agreement pursuant to the provisions of the Growth Management Act addressing the following issues:
 - i. development standards and other provisions that govern and vest the development, permissibility of use, interim design for 16th/136th street, and mitigation of the Project,
 - ii. coordinated and efficient permit processing and timelines for permit decisions, and
 - iii. environmental compliance, the use of existing environmental documents and early identification of any additional environmental information required based on final design of the Project.

6) City Regulatory Authority

Nothing in this Term Sheet shall be deemed a waiver of the City's regulatory authority nor a predetermination of the compliance of the Project with applicable codes and regulations.

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7) **Waiver of Litigation**

The parties agree that during the period of negotiating the binding umbrella memorandum of understanding referenced above through October 25, 2011, neither party will take or join any action in any judicial, administrative or legislative forum to challenge actions of the other with regard to SEPA and the Project alignment decision. Future commitments to avoid litigation will be included in the binding umbrella memorandum of understanding and subsequent agreements, and such provisions shall supersede this Section 7. If the parties fail to execute the binding umbrella memorandum of understanding when required by this Term Sheet, this Section 7 shall be of no further force or effect. Nothing in this Term Sheet is intended to limit or waive the City's full participation in the Section 106 and Section 4(f) processes, as provided for in the regulations. The parties waive no rights except as explicitly set forth herein, and failure to pursue judicial, administrative or legislative remedies during the effective period of this Section shall not be used against a party upon termination of this Section 7.

SOUND TRANSIT

Joan M. Earl
Chief Executive Officer

Date

CITY OF BELLEVUE

Steven R. Sarkozy
City Manager

Date

Approved as to Form:

Approved as to Form:

Lori M. Riordan, City Attorney

By: _____
Mary Kate Berens
Deputy City Attorney

By: _____
Stephen G. Sheehy
Sound Transit Legal Counsel